

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 29 October 2015

**Public Authority:** Network Rail  
**Address:** The Quadrant  
Milton Keynes  
MK9 1EN

#### Decision (including any steps ordered)

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1. The complainant requested information about a tripartite review.
2. The Commissioner's decision is that Network Rail breached section 1(1) and section 10(1) of the FOIA because it did not provide the complainant with a response within 20 working days of receiving his request.
3. Network Rail has now provided a response and the Commissioner does not require it to take any steps.

#### Request and response

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4. On 12 May, the complainant wrote to Network Rail and requested information in the following terms:

*"Under the Freedom of Information Act, I would like to request a copy of the tripartite review of key enhancement projects that was undertaken by Network Rail, the ORR and the Department for Transport, and which was presented to the Secretary of State on 01/09/2014. I would also like to request a copy of any subsequent revisions to the document."*

5. When he did not receive a response, the complainant requested an internal review on 16 July. Network Rail provided a review on 12 August. It acknowledged that it had failed to provide a response and said that it was considering what, if any, exemptions were engaged with respect to the requested information. It did not go on to provide a response.

6. The Commissioner wrote to Network Rail on 11 September to remind it of its obligations under section 10. Network Rail explained to the Commissioner, and subsequently to the complainant, that it was considering whether the exemption under section 36 (prejudice to effective conduct of public affairs) applied to the requested information. The delay was being caused because of the complex liaison and preparation it needed to undertake to prepare particular material for viewing by its Qualified Person, with respect to this exemption.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 12 August because he had not received a response to his request.
8. The Commissioner has considered whether Network Rail has met its obligations under section 10(1) of the Act.

### **Reasons for decision**

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9. Section 1 of the FOIA says Section 1(1) of the FOIA says that when a public authority receives a request, it must confirm or deny whether it holds the information and, if it does, the information must be communicated to the requester.
10. Section 10(1) of the Act says that public authorities must comply with section 1(1) within 20 working days of receiving the request.
11. In this case, the complainant submitted his request to Network on 12 May. He confirmed he had received a response on 16 October, some five months after submitting his request. He requested the Commissioner's decision in this case.
12. The Commissioner notes that Network Rail says that it has now agreed changes to the process for seeking the Qualified Person's opinion and expects this to prevent similar delays in the future.

## Right of appeal

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13. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals  
PO Box 9300  
LEICESTER  
LE1 8DJ

Tel: 0300 1234504  
Fax: 0870 739 5836  
Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

14. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**